

Attachment 3: Recommended Conditions for an Exemption to the Prohibited and Restricted Animals By-law #7392-18

1. Nova's Ark is prohibited from obtaining any other animals, or replacing any currently held animals, that are not permitted in accordance with the Town's Prohibited and Regulated Animals By-law, without the written permission of the Commissioner of Legal and Enforcement Services/Town Solicitor (or designate);
2. The written permission of the Commissioner of Legal and Enforcement Services/Town Solicitor (or designate) shall be required to obtain an animal not included in the May 2023 inventory provided by Nova's Ark, or to exceed the 355 animals, and the Commissioner shall consider whether the animal poses a risk to public safety and is compatible with surrounding land uses;
3. Nova's Ark provide the Town's Manager of Enforcement Services with details for all 355 animals identified in the May 2023 inventory, including
 - a. Photographs and a description of the particular animal that allow it to be positively identified;
 - b. permanent markings, such as tattoos, microchips; and
 - c. any other identification methods that would allow for a positive identification of the animal;
4. Nova's Ark provide the Town's Manager of Enforcement Services with an annual inventory of all the animals housed by Nova's Ark within the Town of Whitby;
5. Nova's Ark provide the Manager of Enforcement Services with a final formal written emergency procedures for the following:
 - a. Animal attacks;
 - b. Animal escapes including contact for neighbours, the Town of Whitby Animal Services, Durham Regional Police Services, and the Ministry of Natural Resources should an animal escape the property ;
 - c. Entry of problematic wild animals; and
 - d. Details proof of education program for volunteers and staff;
6. Nova's Ark maintain a minimum limit of \$10 million Commercial General Liability with the Town as additional insured, with the Town reserving the right solely at its discretion to require additional types of insurance coverage and set higher limits of insurance coverage depending on any changes to the Town's risk exposure;
 - a. The above noted policy (or a similar/specific policy) must:
 - i. Be extended to include animal liability including liability as a result of pollution and zoonotic disease;

ii. Include an extension Cross Liability and Severability of Interests Clause

7. Nova's Ark provide the Commissioner of Legal and Enforcement Services/Town Solicitor with the proof of insurance required by condition 6, above, on the Town's standard form no later than January 12, 2024;
8. That Nova's Ark provide the Town of Whitby with a record of compliance with all required works from the Ministry of the Attorney General (Provincial Animal Welfare Inspectors Unit); and,
9. The Commissioner of Legal and Enforcement Services/Town Solicitor be permitted to add conditions as the Commissioner deems necessary to ensure the safety of the patrons or surrounding community;
10. That all conditions must be fulfilled prior to February 29, 2024 and before Nova's Ark Official Plan and Zoning By-law Amendment application being considered by Council.
11. Nova's Ark provide confirmation from its insurance provider in writing that it has appropriate insurance in the limits set out in Condition 6 which would provide coverage for all the activities that it provides on-site with the animals, to the satisfaction of the Commissioner of Legal and Enforcement Services/Town Solicitor (or designate).
12. Such confirmation outlined in Condition 11 shall be provided on an insurance certificate and the Town must be notified by registered mail within 30 days of any change or cancellation to the policy.
13. Nova's Ark execute an Agreement with the Town, in a form satisfactory to the Town's Commissioner of Legal and Enforcement Services/Town Solicitor and to be signed by the Mayor and the Clerk, indemnifying and holding the Town harmless from any liability and/or negligence as a result of Nova's Ark operations and/or the exemption to By-law #7392-18 granted by the Town.